

REMARKS

Claims 1-24, 28, 29, 45, 46 and 50 have been rejected under the judicially created doctrine of obviousness-type double patenting over claims 1-102 of U.S. Patent No. 6,620,185, and claims 1-3, 6-9, 11-22, 28, 29, 45 and 46 have been rejected under the same doctrine over claims 1-58 of U.S. Patent No. 7,144,414. Applicants have cancelled claims 1-28, 45 and 46, and amended claims 29 and 50, to focus the present application on the new matter that was not disclosed or suggested in these prior patents, as embodied in Figures 39 et seq. of the present application. Applicants respectfully submit that the amended claims are not obvious in view of the claims of the '185 or '414 patents, and request that this rejection be withdrawn.

Claims 4-5 have been rejected under 35 U.S.C. 101. This rejection has been rendered moot by cancellation of these claims.

Claims 1-3 and 16-24 have been rejected under 35 U.S.C. 102(b) as being anticipated by Hannam (U.S. 5,649,959.) This rejection has been rendered moot by the cancellation of the claims in question.

Claims 1-24, 28, 29, 45, 46 and 50 have been rejected under 35 U.S.C. 102(e) as being anticipated by Harvie (US 6,620,185). Claims 1-24, 28, 45 and 46 have been cancelled. Applicants will discuss this rejection as it pertains to amended claims 29 and 50.

Applicants have amended claim 29 to more clearly recite that the cannulated tube includes a tip portion that is configured to releasably receive and carry a rigid suture carrying device within the lumen of the tube at the tip portion and position the suture carrying device in a tissue opening. Claim 50 has been amended to recite the step of sliding the suture carrying device along the extending portion of the suture until the suture carrying device is positioned in the opening. Examples of these features are disclosed in Applicants' specification at pages 38-41 and shown in Figs. 39C-D, 45, and 46-46B.

Harvie does not disclose or suggest a cannulated tube that is configured to releasably receive and carry a rigid suture carrying device within the lumen of the tube at the tip portion and position the suture carrying device in a tissue opening. Nor does Harvie disclose or suggest sliding a suture carrying device along an extending portion of a suture until the suture carrying

device is positioned in the opening. Accordingly, Applicants respectfully request that this rejection be withdrawn.

Claims 28 and 29 have been rejected under 35 U.S.C. 102(b) as anticipated by Weller (U.S. 3,744,921). Claim 28 has been cancelled. Applicants will discuss this rejection as it pertains to amended claim 29.

Weller does not disclose or suggest a cannulated tube that is configured to releasably receive and carry a rigid suture carrying device within the lumen of the tube at the tip portion and position the suture carrying device in a tissue opening. Nor is there anything to indicate that the discharge nozzle 21 of Weller's glue gun would be inherently capable of performing these functions. Accordingly, Applicants respectfully request that this rejection be withdrawn.

Claim 50 has been rejected under 35 U.S.C. 102(b) as being anticipated by Chervitz et al. (U.S. 5,665,110).

Applicants respectfully submit that claim 50 as originally filed was not anticipated by Chervitz. Chervitz does not disclose allowing a flowable material to at least partially solidify to secure a suture and a suture carrying device in the opening. Instead, in Chervitz, the suture is positioned in the bone opening using an insertion rod which is withdrawn after the suture is in position and before the flowable material is solidified (col. 4, lines 16-21). Accordingly, Applicants respectfully request that this rejection be withdrawn.

In view of the above, Applicants respectfully submit that the claims are in condition for immediate allowance, which is respectfully requested.

It is believed that no fees are due with this submission. Please apply any charges or credits to deposit account 06-1050, referencing Attorney Docket No. 00167-0490US1/PT-2655-US-PCT.

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Respectfully submitted,

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